

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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Amendment of the ) RM-9107  
Commission's Rules to Allow )  
Organization Licensing in the )  
General Mobile Radio Service )

COMMENTS IN OPPOSITION

Bennett Z. Kobb hereby submits comments opposing petition RM-9107 by Kenneth J. Collier (the Petition). Mr. Kobb holds licenses in the General Mobile Radio Service (GMRS) and Amateur Radio Service, and has almost 25 years experience in commercial and noncommercial wireless services.

SUMMARY

The Petition ignores the extensive record supporting the current GMRS individual licensing policy; proposes an overregulatory licensing regime; and prescribes measures that are unnecessary in view of now-available communications alternatives.

THE FCC HAS ALREADY CONSIDERED AND RESOLVED ORGANIZATIONAL  
LICENSING IN THE GMRS

The landmark Report and Order in PR Docket 87-265 found, *inter alia*, that the operations of non-individual licensees should not be permitted to compromise the viability of GMRS.<sup>1</sup> Having reviewed several alternative licensing schemes to address this problem—including the scheme offered in the Petition—the FCC selected individual licensing<sup>2</sup> as the most suitable of the proposals presented.

The FCC recognized that individual licensing represented more than a means to discourage the use of GMRS by parties eligible in other services. The

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<sup>1</sup> Report and Order, PR Docket 87-265, Nov. 10, 1988 ("Report and Order") at 13 and 16.

<sup>2</sup> 47 CFR 95.5.

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Commission established a *“new regulatory framework based on responsibility for one’s own communications as an individual GMRS system licensee.”* (Emphasis added).<sup>3</sup>

The GMRS community enthusiastically welcomed the new framework because decades of experience showed that organizational licensing diffuses accountability for on-air conduct and FCC rules compliance.

The ability to “stop the buck” and identify an individual who is personally responsible for transmissions is critical to licensees’ obligation to “cooperate in the selection and use of channels”<sup>4</sup> and to “cooperate and resolve [problems] by mutually satisfactory arrangements.”<sup>5</sup>

The ultimate prospect of having one’s own license conditioned, suspended or revoked remains a motivator in GMRS as it does in any field where licensure, authorization or certification by a government body is required.

Key characteristics of GMRS<sup>6</sup> make pre-transmission monitoring, station identification, transmission only of permissible communications, and familiarity with FCC rules far more important than in most other wireless personal communications media, where sophisticated technology manages system access.

But the record of Docket 87-265 demonstrated that ignorance of good radio practices, and little if any individual interest in compliance, were common among users operating under the shield of organizational GMRS licenses. This is unfortunately the case whether the violators are employees of a business licensed in the service, or users of a public-service team license.

Indeed, some public-service team licensees have adopted outlandish reinterpretations of FCC rules, only to self-justify their usurpation of the local

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<sup>3</sup> Report and Order at 15.

<sup>4</sup> 47 CFR 95.7(a).

<sup>5</sup> 47 CFR 95.7(b).

<sup>6</sup> These include an extremely limited spectrum allocation, no formal frequency coordination, conventional technology, and—especially—wide-area repeater operation. Incompetent or inconsiderate operation over repeater channels can reduce or destroy service for all users of that channel over an entire metropolitan area.

GMRS spectrum resource. To the extent interference and abuse continue, they are often traceable to operation under “grandfathered” organizational licenses.

#### **THE PETITION’S SOLUTION IS OVERREGULATORY**

To ensure rule compliance under organizational licenses, the Petition proposes to limit such licenses to organizations with Internal Revenue Service 501(c)(3) status.<sup>7</sup> Such organizations are numerous, to say the least.<sup>8</sup>

The Report and Order thoroughly examined 501(c)(3) eligibility for GMRS licenses. It correctly concluded that “there is nothing inherent in tax exempt status that uniquely qualifies or recommends an entity with such status for special licensing consideration in the GMRS.”<sup>9</sup> The broad eligibility for tax-exempt status affords no nexus with radio communications or FCC rule compliance.

Moreover, even if FCC examiners *could* reliably reject applications from bogus, if benevolent-sounding, “public service” organizations, it would be difficult to police organizational licensees to ensure that their users limited their content to the organization’s business and did not transmit personal messages.<sup>10</sup>

The Petition also proposed that organizational licensees follow a regime of recordkeeping, training, expenditure, content restriction, and operator supervision, but nowhere explains how such programs would be financed, monitored or enforced.

#### **THE FAMILY RADIO SERVICE (FRS) MEETS PETITIONER’S REPUTED NEEDS**

Since the Petition was filed, radios have become available in the Family Radio Service (FRS).<sup>11</sup> Coverage and quality of FRS appear suitable for disaster communications; and GMRS and FRS users may intercommunicate on the

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<sup>7</sup> Petition page 4.

<sup>8</sup> The IRS recorded 614,146 organizations with 501(c)(3) status as of 1Q 1997.

<sup>9</sup> Report and Order at 20.

<sup>10</sup> Petition page 5: “[C]ommunications of a personal nature should not be facilitated under this amendment.”

<sup>11</sup> 47 CFR 95 Subpart B.

common channels in the services. The sole objection of the Petition to FRS is that it "should have a useful range of only a fraction of a mile."<sup>12</sup> Yet FRS radios are regularly advertised with range that exceeds five miles. The typical disaster services team would find FRS capability highly desirable. To the extent that wide-area repeater service via GMRS is required, the potential for intentional or unintentional misuse mandates repeater operation only by licensed individuals.

**THE PETITION IS A "FRIVOLOUS PLEADING"**

The Petition offers no reason to disturb matters well-settled by the Commission. It merely restates the objections to individual licensing considered in PR 87-265,<sup>13</sup> where the FCC decided to close the loophole that organizational licensing in GMRS had become.

The Petition is "based on arguments that have been specifically rejected by the Commission," and is therefore a "frivolous pleading" subject to sanctions.<sup>14</sup>

The foregoing considered, Bennett Z. Kobb urges the Commission to decline to adopt the Petition.

Respectfully submitted,

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<sup>12</sup> Petition page 2.

<sup>13</sup> Petition page 2 and 3; *compare* with Report and Order at 17-21.

<sup>14</sup> FCC Public Notice, Feb. 9, 1996, "Commission Taking Tough Measures Against Frivolous Pleadings." This Notice encouraged Bureaus and Offices to utilize the FCC's sanctions powers, which include authority to strike pleadings pursuant to 47 CFR 1.52 or other applicable rules and to issue forfeitures under 47 USC 503 for violations of 47 CFR 1.52 or other applicable rules.